



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/555,895	11/04/2005	Jeffrey Yeung	325-003US	2268

23429 7590 10/18/2010
GREGORY SMITH & ASSOCIATES
3900 NEWPARK MALL ROAD, 3RD FLOOR
NEWARK, CA 94560

EXAMINER

EISENBERG, REBECCA E

ART UNIT	PAPER NUMBER
----------	--------------

3763

MAIL DATE	DELIVERY MODE
-----------	---------------

10/18/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GREGORY SMITH & ASSOCIATES
3900 NEWPARK MALL ROAD, 3RD FLOOR
NEWARK CA 94560

In re Application of
YEUNG, JEFFREY et al : DECISION ON REQUEST TO
Application No. 10/555,895 : PARTICIPATE IN PATENT
Filed: Nov. 4, 2005 : PROSECUTION HIGHWAY
Attorney Docket No. 325-003US : PILOT PROGRAM AND PETITION
For: TREATING BACK PAIN BY RE- : TO MAKE SPECIAL UNDER
ESTABLISHING THE EXCHAGE OF : 37 CFR 1.102(d)
NUTRIENT & WASTE

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed October 7, 2010 to make the above-identified application special.

The request and petition are Dismissed.

A grantable request to participate in the PPH program and petition to make special require:

- (1) The U.S. application must disclose an eligible relationship to one or more PCT applications filed in the JPO, EPO, KIPO or USPTO;
- (2) Applicant must submit a copy of the allowable/patentable claim(s) from the PCT application(s) latest international work product (the written opinion or the IPER) along with an English translation thereof and a statement that the English translation is accurate;
- (3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the PCT application(s);
- (4) Examination of the U.S. application has not begun;
- (5) Applicant must submit a copy of the latest international work product from the PCT application containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate; and
- (6) Applicant must submit an IDS listing the documents cited by the PCT examiner in the international work product along with copies of documents except U.S. patents or U.S. patent application publications.

With regard to Item #3, the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claims in the PCT application. The Claims Correspondence Table in the petition is deficient. Current US application contains claims 1-98 which are not sufficiently corresponding to allowable claims 1-55 and 75-91 PCT search opinion. It must be noted the claims 56-74 contain different scopes from the original allowed claims 1-55 and 75-91 of PCT search opinion. In particular, the search opinion indicates that claims 56-74 contains negative remarks. Thus, Item #3 is not satisfied and for this reason the petition can not be granted. Those extra claims 56-74 must be cancelled.

Applicant is encouraged to cite and submit all relevant prior art references, if any, to facilitate examination in this application.

Applicant is given a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, from the mailing date of this decision to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn. Response must be filed via EFS-Web. Currently, the application is undergoing entry of RCE papers and amendment processing.

Telephone inquiries concerning this decision should be directed to Henry C. Yuen at 571-272-4856.

Petition is dismissed.

/Henry C. Yuen/

Henry C. Yuen, Special Programs Examiner
Technology Center 3700 – Mechanical Engineering,
Manufacturing and Products
571-272-4856